UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,525	11/20/2001	Stephen R. Bacso	1028-007US01	4260

7590 05/31/2006	EXAMINER
OSTROLENK, FABER, GERB & SOFFEN LLP	PARRY, CHRISTOPHER L

ART UNIT	PAPER NUMBER
2623	

OSTROLENK, FABER, GERB & SOFFEN LLP
1180 Avenue of the Americas
New York, NY 10036-8403

DATE MAILED: 05/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/991,525	BACSO ET AL.
	Examiner	Art Unit	
	Chris Parry	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 March 2006*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15* is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *13 March 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All   b)☐ Some * c)☐ None of:

       1.☐ Certified copies of the priority documents have been received.

       2.☐ Certified copies of the priority documents have been received in Application No. _____.

       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
     Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new ground(s) of rejection.

       In response to applicant's arguments (Page 18, 5th ¶, lines 3-5), stating Eldering '930 does not teach the use of a content schedule component and a profile component as recited in claim 13, the examiner respectfully disagrees. Claim 13 requires the head end component to include a content schedule component and a profile component (Lines 3-8 of Claim 13) and not the set-top box. Therefore, Eldering '930 does teach the necessary head end components.

2.   The examiner notes the features of the Official Notice are taken to be admitted prior art because the applicant failed to traverse the examiner's assertion of official notice for claims 9, 10, and 14.

Claim Objections

3.   Claim 4 is objected to because of the following informalities: In claim 4, on line 14, there is no antecedent basis for "the receiver function", so it should be --a receiver function--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5.   Claims 7, 8, and 11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specification discloses the matching engine includes triggers that indicate to the micro decision engine (MDE) if certain components need to be replaced to enable dynamic adaptation to new feedback algorithms, improved functional capability, and/or component code fixes.

The matching engine is responsible for generating schedules, meta-data and triggers that, combined with content, are broadcast via the delivery engine to MDE's. The matching engine also communicates with the delivery engine to forward configuration triggers that inform an MDE of a requirement to replace particular MDE sub-components in part or in whole (Page 6, lines 4-8).

The difference between claim 7 and the specification is that claim 7 requires the micro decision engine to include triggers that are received by a micro decision engine that indicates if certain components need to be replaced. Where as the specification provides support for the matching engine, not the micro decision engine, to include triggers that are to be received by a micro decision engine that indicates if certain components need to be replaced.

To advance prosecution, the examiner will interpret the claim to read on a micro decision engine MDE, which receives triggers (from a matching engine) that indicate if certain components need to be replaced to enable dynamic adaptation to new feedback algorithms, improved functional capability, and/or component code fixes.

6.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7.   Claims 7-8 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 is vague because the terms: "certain components", "new feedback algorithms" and "improved functional capability" are considered indefinite. That is, neither the specification nor the claim language itself conveys in such a manner as to enable an ordinary skill in the ad to make and use the same invention (as required by 35 U.S.C. 112 first paragraph) without specifically spelling out what are the

components, algorithms, and at what level of capability would it achieve "improved

functional capability".

Claim Rejections - 35 USC § 102

8.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9.   Claims 1, 12, and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by

Zigmond et al. "Zigmond" (U.S. 6,698,020 - cited in previous office action).

Regarding Claim 1, Zigmond discloses, a method for presenting target content to

users in a communications network (Abstract), the method comprising the steps of:

determining user characteristics of a viewer (Col. 11, lines 13-18).

Zigmond teaches, receiving the user characteristics (Col. 10, lines 48-53) and

schedule information on a viewer's receiver device (Col. 10, line 64 – Col. 11, line 8).

Zigmond teaches, selecting the target content according to features available on

the receiver device (80 – figure 5) (Col. 11, lines 31-35 and Col. 17, lines 23-25).

Zigmond teaches, presenting the target content in accordance with said user

characteristics and said schedule information (Col. 11, lines 31-49 and Col. 17, lines 23-

31).

Regarding Claim 12, Zigmond discloses, a system (figure 5) for presenting target

content to users in a communications network, the system comprising: means for

determining user characteristics of a viewer (Col. 11, lines 13-18).

Zigmond teaches, means for receiving the user characteristics (Col. 10, lines 48-

53) and schedule information on a viewer's receiver device (Col. 10, line 64 – Col. 11,

line 8).

Zigmond teaches, means for selecting target content in according to features

available on the receiver device (Col. 11, line 31-35 and Col. 17, lines 23-35).

Zigmond teaches, means for presenting the target content in accordance with

said user characteristics and said schedule information (Col. 11, lines 31-49 and Col.

17, lines 23-34).

Regarding Claim 15, Zigmond teaches, a storage medium readable by a

computer, the medium encoding a computer process to provide a method for target

content presentation in a communications network, the computer process comprising

the steps of: determining user characteristics of a viewer (Col. 11, lines 13-18). Zigmond

discloses ad insertion device 80 or "viewer's receiver device" can be a WebTV box, so

ad insertion device 80 must comprise a memory or "storage medium" that comprises

instructions readable by the processor of the ad insertion device 80.

Zigmond teaches, receiving the user characteristics (Col. 10, lines 48-53) and

schedule information on a viewer's receiver device (Col. 10, line 64 – Col. 11, line 8).

Zigmond teaches, selecting target content according to features available on the

receiver device (Col. 11, lines 31-35 and Col. 17, lines 23-25).

Zigmond teaches, presenting the target content in accordance with said user

characteristics and said schedule information (Col. 11, lines 31-49 and Col. 17, lines 23-

31).

Claim Rejections - 35 USC § 103

10.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

11.   Claims 2 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Zigmond in view of Flickinger et al. "Flickinger" (U.S. 2002/0083441 – cited in

previous office action) and further in view of Eldering el al. "Eldering '519" (U.S.

6,324,519 – cited in previous office action).

As for Claim 2, Zigmond discloses monitoring the program stream for

opportunities and content descriptors (Col. 15, lines 35-44), however Zigmond fails to

explicitly disclose monitoring a programming stream for opportunity descriptors and

content descriptors; determining a source for alternate target content; matching the

opportunity descriptors to the target content and the user characteristics.

In an analogous art, Flickinger teaches monitoring a programming stream for

opportunity descriptors and content descriptors (¶ 70, lines 5-8). Flickinger discloses

each received ad has a tag or "opportunity descriptor" associated with it describing the

characteristics of the ad (¶ 73). Further, this tag or "opportunity descriptor" can be used

by the STB 200 to determine whether or not to store the received ad (¶ 74).

Flickinger further teaches, matching the opportunity descriptors to the target

content and the user characteristics (¶ 72). Flickinger discloses STB 200 uses the

received tag or "opportunity descriptor" associated with each received ad and compares

the characteristics contained in the ad tag with the STB profile to determine if there is a

match. If a match is found the ad is stored and if a match is not found, the ad is ignored

(¶ 74).

Accordingly, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to modify Zigmond with the teachings of Flickinger in order

to monitoring a programming stream for opportunity descriptors and matching the

opportunity descriptors to the target content and the user characteristics for the benefit

of allowing advertisers to better reach their target audience while increasing the

probability the advertisements will be viewed by their target audience (Flickinger – ¶ 45).

The combination of Zigmond and Flickinger fail to disclose determining a source

for alternate target content. In an analogous art, Eldering '519 teaches, determining a

source for alternate target content (Col. 3, lines 26-38). Therefore, it would have been

obvious to one of ordinary skill in the art at the time the invention was made to modify

the combination of Zigmond and Flickinger with the teachings of Eldering '519 in order

to determine a source for alternate target content for the benefit of matching

advertisements with consumers (Eldering '519 – Background).

As for Claims 9 and 10, the combination of Zigmond and Flickinger fail to

disclose viewers profile data is encrypted to prevent unauthorized access and storing

the files within the facilities of a CA system. However, the examiner gives Official Notice

that it is notoriously well known in the art of video distribution systems to keep

customer's confidential information in a secured part of a system. Accordingly, it would

have been obvious to one of ordinary skill in the art at the time the invention was made

to modify the combination of Zigmond and Flickinger in order to keep viewers profile

data encrypted to prevent unauthorized access for the benefit of securely storing

viewer's profiles because such practice would protect confidential information about the

subscription service's subscribers.

12.   Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond

in view of Flickinger in view of Eldering '519 as applied to claim 2 above, and further in

view of Houston (U.S. 6,353,929).

As for Claim 3, the combination of Zigmond, Flickinger, and Eldering '519 fail to

disclose updating a secure audit log with a viewing result.

In an analogous art, Houston discloses updating a secure audit log with a

viewing result (Col. 10, lines 1-30). Therefore, it would have been obvious to one of

ordinary skill in the art at the time the invention was made to modify the combination of

Zigmond, Flickinger, and Eldering '519 with the teachings of Houston in order to update

a secure audit log with a viewing result for the benefit of ensuring that the privacy of the

viewers would be kept confidential.

13.   Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond

in view of Flickinger in view of Eldering '519 and further in view of Fopeano et al.

"Fopeano" (U.S. 2001/0039657).

As for Claim 4, Zigmond discloses monitoring the program stream for

opportunities and content descriptors (Col. 15, lines 35-44), however Zigmond fails to

explicitly disclose monitoring programming and content streams for opportunity

descriptors and content descriptors; pre-matching the opportunity descriptors to the

target content and the user characteristics; determining a source for alternate target

content; checking security rights at a function invocation on the receiver device to

determine appropriateness of the target content; if the content is not appropriate, skipping the presenting step; and updating pre-matched opportunity descriptors for a next function invocation of the receiver function.

In an analogous art, Flickinger teaches monitoring programming and content streams for opportunity descriptors and content descriptors (¶ 70, lines 5-8). Flickinger discloses each received ad has a tag or "opportunity descriptor" associated with it describing the characteristics of the ad (¶ 73). Further, this tag or "opportunity descriptor" can be used by the STB 200 to determine whether or not to store the received ad (¶ 74).

Flickinger further teaches, pre-matching the opportunity descriptors to the target content and the user characteristics (¶ 67). Flickinger discloses the information required to determine whether or not to store the ad could be sent in advance of the ad. Flickinger discloses STB 200 uses the received tag or "opportunity descriptor" associated with each received ad and compares the characteristics contained in the ad tag with the STB profile to determine if there is a match (¶ 72). If a match is found the ad is stored and if a match is not found, the ad is ignored (¶ 74).

Flickinger teaches, updating pre-matched opportunity descriptors for a next function invocation of the receiver function (¶ 67). Flickinger discloses ad tags or "opportunity descriptors" can be received in advanced so therefore the tags can be matched with the STB profile in order to determine which ads to store before receiving the ads.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zigmond with the teachings of Flickinger in order to monitoring programming for opportunity descriptors and matching the opportunity descriptors to the target content and the user characteristics for the benefit of allowing advertisers to better reach their target audience while increasing the probability the advertisements will be viewed by their target audience (Flickinger – ¶ 45).

The combination of Zigmond and Flickinger fail to disclose determining a source for alternate target content. In an analogous art, Eldering '519 teaches, determining a source for alternate target content (Col. 3, lines 26-38). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Zigmond and Flickinger with the teachings of Eldering '519 in order to determine a source for alternate target content for the benefit of matching advertisements with consumers (Eldering '519 – Background).

The combination of Zigmond, Flickinger, and Eldering '519 fail to disclose checking security rights at a function invocation on the receiver device to determine appropriateness of the target content and if the content is not appropriate, skipping the presenting step.

In an analogous art, Fopeano discloses checking security rights at a function invocation on the receiver device to determine appropriateness of the target content (¶ 47, lines 1-4).

Fopeano further discloses if the content is not appropriate, skipping the presenting step (¶ 47, lines 5-12). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Zigmond, Flickinger, and Eldering '519 with the teachings of Fopeano in order to check security rights at a function invocation on the receiver device to determine appropriateness of the target content and if the content is not appropriate, skipping the presenting step for the benefit of shielding audiences, such as children, from content that contains mature content and is not appropriate for the viewing audience.

14.   Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond in view of Flickinger in view of Eldering '519 in view of Fopeano as applied to claim 4 above, and further in view of Houston.

As for Claim 5, the combination of Zigmond, Flickinger, Eldering '519, and Fopeano fail to disclose updating a secure audit log with a viewing result.

In an analogous art, Houston discloses updating a secure audit log with a viewing result (Col. 10, lines 1-30). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Zigmond, Flickinger, Eldering '519, and Fopeano with the teachings of Houston in order to update a secure audit log with a viewing result for the benefit of ensuring that the privacy of the viewers would be kept confidential.

15.   Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond

in view of Flickinger in view of Eldering '519 in view of Fopeano, and further in view of

Ismail et al. "Ismail" (U.S. 6,614,987).

As for Claim 6, Zigmond, Flickinger, Eldering '519 disclose, in particular

Flickinger teaches, monitoring a content descriptor transmission stream for opportunity

descriptors and content descriptors (¶ 70, lines 5-8). Flickinger discloses each received

ad has a tag or "opportunity descriptor" associated with it describing the characteristics

of the ad (¶ 73). Further, this tag or "opportunity descriptor" can be used by the STB 200

to determine whether or not to store the received ad (¶ 74).

Zigmond, Flickinger, Eldering '519 disclose, in particular Flickinger teaches,

matching the opportunity descriptors with the receiver device's capabilities (¶ 72). STB

200 naturally can only store target content with associated opportunity descriptors that

are compatible with STB 200 capabilities.

Zigmond, Flickinger, Eldering '519, in particular Flickinger teaches, matching the

content descriptors to the user characteristics (¶ 70, lines 5-8).

Zigmond, Flickinger, Eldering '519, in particular Flickinger teaches, selecting the

content descriptors with the strongest match to the user characteristics (¶ 64, lines 1-

12).

Zigmond, Flickinger, Eldering '519, in particular Flickinger teaches, if the received

target content is not already in storage, determining if the received target content can be

acquired in a timely manner (¶ 67, lines 8-10). Flickinger discloses ad tags can be

received and processed in advance to prevent from storing every received ad in storage. If the STB 200 determines the ad is appropriate based on the ad tag, then when the corresponding is received, the ad is immediately stored in memory.

Zigmond, Flickinger, Eldering '519 disclose, in particular Eldering '519 teaches, acquiring the target content from the determined alternate source (Col. 3, lines 26-38).

Zigmond, Flickinger, Eldering '519 fail to disclose verifying that permission is available to access the received target content. In an analogous art, Fopeano discloses verifying that permission is available to access the received target content (¶ 47, lines 1-4). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Zigmond, Flickinger, and Eldering '519 with the teachings of Fopeano in order to check security rights at a function invocation on the receiver device to determine appropriateness of the target content and if the content is not appropriate, skipping the presenting step for the benefit of shielding audiences, such as children, from content that contains mature content and is not appropriate for the viewing audience.

The combination of Zigmond, Flickinger, Eldering '519, and Fopeano fail to explicitly disclose comparing the content descriptor matches of the received target content with the content descriptor matches of existing target content in the receiver's storage, to determine if the existing target content has weaker matches than the received target content and placing the acquired target content in storage.

In an analogous art, Ismail discloses comparing the content descriptor matches of the received target content with the content descriptor matches of existing target content in the receiver's storage, to determine if the existing target content has weaker matches than the received target content (Col. 10, lines 32-62). Ismail discloses recording manager 112 causes recording of programs 105 by using the received preference ratings from preference agent 110. The recording manager 112 then records programs or "target content" that have a high rating (Col. 9, line 59 – Col. 10, line 10). To make room for newly received programs or "target content", recording manager 112 manages storage capacity by comparing the received program with a high rating to a stored program with a low or "weaker" rating (Col. 10, lines 50-54).

Ismail further discloses, placing the acquired target content in storage (Col. 9, line 59 – Col. 10, line 14).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Zigmond, Flickinger, Eldering '519, and Fopeano with the teachings of Ismail in order to include comparing the content descriptor matches of the received target content with the content descriptor matches of existing target content in the receiver's storage, to determine if the existing target content has weaker matches than the received target content and placing the acquired target content in storage for the benefit of maximizing storage constrains by only storing target content that will be of high interest to the intended viewer.

16.   Claims 7, 8, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Zigmond in view of Flickinger in view of Eldering '519 as applied to claim 2 above,

and further in view of Picco et al. "Picco" (U.S. 6,029,045 – cited in previous office

action).

As for Claim 7, the combination of Zigmond, Flickinger and Eldering '519 fail to

disclose wherein a configuration of a micro decision engine (MDE) includes triggers that

indicate to the MDE if certain components need to be replaced to enable dynamic

adaptation to new feedback algorithms, improved functional capability, and/or

component code fixes.

In an analogous art, Picco discloses wherein a configuration of a micro decision

engine (MDE) includes triggers that indicate to the MDE if certain components need to

be replaced to enable…improved functional capability… by disclosing the scheduler

may generate command signals for the set-top box or "MDE" which, for example,

request the set-top box to update a local content control block, indicate a new download

to the set-top box, download software updates to the set-top box for the software being

executed by the set-top box, or download a control strategy to the set-top box, which all

cause for improved functional capability.

Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to modify the combination of Zigmond, Flickinger and

Eldering '519 with the teachings of Picco in order to include a configuration of a micro

decision engine (MDE) includes triggers that indicate to the MDE if certain components

need to be replaced to enable improved functional capability for the benefit of keeping

the set-top box up to date with software updates.

As for Claim 8, the combination of Zigmond, Flickinger, Eldering '519, and Picco,

in particular Picco teaches, wherein the MDE receives the user characteristics from an

operator by disclosing the local content includes content profiles that indicate to the set-

top box or "MDE" the interest of local content for viewers in the household. If the content

profiles match with the user preferences then the local content is stored on disk (Col.

13, lines 36-65).

As for Claim 11, the combination of Zigmond, Flickinger, Eldering '519, and Picco

disclose, in particular Picco teaches, wherein a plurality of instances of the MDE can be

generated to match one or more of the capabilities and requirements of the receiver

device and the capabilities of a plurality of receiver models on the network (Col. 7, lines

41-48).

17.   Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond

in view of Eldering et al. "Eldering '930" (U.S. 6,704,930 – cited in previous office

action).

As for Claim 13, Zigmond discloses a receiver component (80 – figure 5) including: a data filter for filtering data (84 – figure 5; Col. 15, lines 17-23); and a micro decision engine (83 – figure 5) for providing the guidance and commands to present content to the end-user from the data filter (Col. 11, lines 31-49). However, Zigmond fails to disclose a head end component.

In an analogous art, Eldering '930 discloses a head end component (figure 11) including: a content schedule component (203 – figure 11) having: a content schedule database, and a content scheduler for accessing the content schedule database to provide schedule triggers (Col. 8, lines 58-65).

Eldering '930 discloses a head end component further having a profile component (221 – figure 11) having: a profile database; and a profile scheduler for accessing the profile database to provide profile triggers (Col. 9, lines 15-24).

Eldering '930 discloses a head end component further having a matching engine (201 – figure 11) for accessing the content schedule and profile components to match content to end-users (Col. 9, lines 37-43).

Eldering '930 discloses a head end component further having a delivery engine for delivering the matched content (Col. 9, lines 53-58). Although not shown, the head end component must have a delivery engine in order to facilitate transmission of the multiplexed stream to subscribers.

Eldering '930 discloses a head end component further having a combiner (245 – figure 11) that receives the delivered matched content and combines it with available content streams (Col. 9, lines 44-52).

Eldering '930 discloses a data network between the head end and the end-user components for transmitting data (Col. 9, lines 53-58).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zigmond with the teachings of Eldering '930 in order to include a head end component for the benefit of providing a management system to control the insertion process of target content in a multiplexed stream (Eldering '930 – Background).

As for Claim 14, Zigmond and Eldering '930 fail to explicitly disclose wherein the delivery engine is provided in a plurality of instances to provide for load balancing and capacity requirements. The examiner gives Official Notice that it is notoriously well known in the art of video distribution systems to provide systems that provide load balancing to prevent a server from being overwhelmed with requests for content. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zigmond and Eldering '930 to implement a system that provided load balancing and capacity requirements for the benefit of preventing an overload of bandwidth throughout the system.

Note to Applicant

18.   Art Units 2611, 2614 and 2617 have changed to 2623. Please make sure all

future correspondence indicate the new designation 2623.

Conclusion

19.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Chris Parry whose telephone number is (571) 272-8328.

The examiner can normally be reached on Monday through Friday, 8:30 AM EST to

4:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Chris Grant can be reached on (571) 272-7294. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Examiners Initials:_____
May 24, 2006

CHRISTOPHER GRANT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600